

Puffing Out Justice

Cig-Cancer Case Judge Is Smoker

Smokers, non-smokers, and sometime smokers are involved in the Cigaretts vs. Lung Cancer case in United States District Court here.

Even Judge John L. Miller smokes cigarettes. "He smokes cigarettes, all right, but not many," said one court attache. "I don't know what brand, even."

It was a judicial comment. Chesterfield cigarettes are on trial here, with Otto E. Pritchard, 61, alleging that they caused his lung cancer. Judge Miller is not making himself available for comment on this matter these days.

It is known that the jury contains some known cigarette smokers, and some smokers who quit. Before they were selected a court clerk was directed to question them on their smoking habits.

Attorney Earl F. Reed, representing Liggett & Myers tobacco company, says, "I smoke a pipe and cigars."

Attorney J. P. McArdle, counsel for Mr. Pritchard, said: "I used to smoke, but I stopped when I got to researching this cancer thing."

"What did you smoke, Mr. McArdle?" he was asked.

He looked up and, without batting an eye, snapped: "Chesterfields."

Attorney Kenneth Jackson, one of Mr. Reed's associate counsels, asked about his smoking habits, said:

"I don't."

Court attaches puff a variety of items, including pipes and cigars, but most smoke cigarettes. These range from the "name brands" to the almost forgotten Sweet Caporals.

Reporters covering the case stick to the popular brand cigarettes, when they smoke at all.

PITTSBURGH POST-GAZETTE
Pittsburgh, Pennsylvania
April 6, 1960

Cig-Cancer Case Medics To Be Heard

U. S. Judge Rules Experts' Testimony Will Be Admitted

By ALBERT W. BLOOM
Post-Gazette Staff Writer

Otto E. Pritchard, 61-year-old Brookline carpenter who claims that smoking cigarettes gave him lung cancer, won his first important technical round in Federal Court yesterday.

He is suing Liggett & Myers Tobacco Company for \$1,250,000 damages.

Read a story, "Judge Hearing Cigaret and Cancer Case a Smoker," Page 5.

Federal Judge John L. Miller in effect ruled against a request for a hearing made by Attorney Earl F. Reed, tobacco firm counsel.

Mr. Reed maintains that no medical scientist can say for certain that cigarette smoking causes lung cancer. And he objects to any such testimony going before the jury of seven women and five men.

But Attorney James P. McArdle, representing Pritchard, offered to bring medical witnesses to provide expert testimony linking lung cancer to heavy cigarette smoking—in this case, Chesterfields.

During closed-door conferences in the judge's chambers lasting 1½ hours, Attorney Reed asserted his objections. Judge Miller overruled him.

It came in a brief, simple, and rather circuitously worded statement, politely face-saving for all concerned. But its meaning was direct. Judge Miller's statement said:

"The court has decided to follow the usual procedure and hear the medical testimony and rule thereon as the case proceeds."

This means that when the trial resumes tomorrow at 10 a. m., the jury will probably get a chance to hear medical testimony which will evidently tag heavy cigarette smoking to lung cancer "causation."

All such witnesses will, of course, be subject to the sharp cross-examination of Mr. Reed and his battery of legal assistants.

They may also object to each witness who attempts to enter the area of "lung cancer causation" and cigarette smoking on grounds of "competence," asserting that no one is competent to point the causative finger of blame at cigarettes.

Lung Removed in 1953

Mr. McArdle has stated that Mr. Pritchard had "epidermoid carcinoma (cancer), squamous cell type." His right lung was removed at Presbyterian Hospital here on December 11, 1953, and found to be cancerous.

(There is a type of lung cancer which is not associated with smokers; it is called adeno-carcinoma.)

Mr. Pritchard testified that on the morning of his operation, between 5 and 7 a. m., "I smoked 2½ packs of cigarettes."

He has not smoked since, said Mr. Pritchard.

He started smoking at age 14, he said, and added that he switched to Chesterfields about 1924.

From then until 1953 he smoked "mostly Chesterfields," though changing to other brands from time to time. "Occasional" cigar and pipe-smoking periods were noted, too.

Mr. Pritchard estimated he smoked "about 30 cigarettes a day."

Surgeons to Be Called

Attorney McArdle is preparing to put two chest surgeons on the stand, probably tomorrow. They are expected to be Dr. Richard Overholt, of Boston, and Dr. Victor Kaunitz, of Buffalo. Other health scientists may be called, too.

Then Mr. McArdle is expected to attack what he has called "deceitful" advertising by the tobacco firms; and scientific evidence linking smoking and lung cancer which he says the firm "blithely ignored."

Also awaiting introduction by Mr. McArdle into the case are the signed statements of TV and movie stars telling how they were told to plug Chesterfields in advertising.

10035434524